UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,721	04/13/2007	Hirotoshi Iwasaki	0121/0060	2814

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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/593,721	IWASAKI ET AL.
	Examiner	Art Unit
	ALICIA LEWIS	2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _28 October 2011_.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5) ☒ Claim(s) _82,83,85,87,88,90,92,93,95 and 97-108_ is/are pending in the application.

   5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☒ Claim(s) _82,83,85,87,88,90,92,93,95 and 97-108_ is/are rejected.

8) ☐ Claim(s) _____ is/are objected to.

9) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10) ☒ The specification is objected to by the Examiner.

11) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _10/4/2011_.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

This final office action is responsive to communication filed October 28, 2011.

Claims 1-81, 84, 86, 89, 91, 94 and 96 have been canceled; claims 85, 87, 90, 92 and

95 are currently amended; and new claims 97-108 have been added. Therefore, claims

82, 83, 85, 87, 88, 90, 92, 93, 95 and 97-108 are pending in this application.

Information Disclosure Statement

1.   The information disclosure statement filed October 4, 2011 fails to comply with

37 CFR 1.98(a)(2), which requires a **legible copy** of each cited foreign patent

document; each **non-patent literature publication** or that portion which caused it to be

listed; and all other information or that portion which caused it to be listed. It has been

placed in the application file, but the information referred to therein has not been

considered.

Specification

2.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: Claims 87 and 90 have been amended to include a memory.

However, the term memory does not occur in the specification.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 82, 85, 87, 90, 92 and 95 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Sato et al. (US 2003/0114968 A1) ('Sato') in view of Barton (US

2011/0078035 A1).

        With respect to claims 82 and 87, Sato teaches a device and method of creating

a program table to define a temporal arrangement of a plurality of contents, said method

comprising the steps of:

        utilizing a constraint condition solution unit to create said program table through

the use of a constraint solution technique on the basis of a constraint condition related

to a selection of said plurality of contents and/or a constraint condition related to a

temporal arrangement of said plurality of contents (paragraphs 35-40 and 44); and

        utilizing a constraint condition solution unit to create said program table again

through the use of a constraint solution technique according to priorities (paragraphs

54-55, 82, and 111) (*Sato teaches when there is excess time (i.e. an excess state) the*

system modifies the program list to extend the time length. He further teaches that

extended priorities are used to determine the order/priority in which programs should be

extended).

Sato further teaches a memory (storage device) that stores said program table created by said constraint condition solution unit (paragraph 87).

Sato does not explicitly teach creating a program table with the time length of each of said plurality of contents unchanged, by introducing a new constraint condition according to priorities of said constraint conditions.

Barton teaches an electronic content distribution and exchange system (see abstract), in which he teaches creating a program table (*schedule*) with the time length of each of said plurality of contents unchanged, by introducing a new constraint condition according to priorities of said constrain conditions (paragraph 174). (*Barton teaches that a scheduled program may be deleted from the schedule if a change in view preferences identifies a higher priority program that could be recorded at the same time.*)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Sato by the teaching of Barton to enable authenticated, reliable content downloads and tracking capabilities based on user preferences and time constraints (Barton, abstract).

With respect to claims 85 and 90, Sato teaches a device and method of creating a program table to define a temporal arrangement of a plurality of contents, said method comprising the steps of:

utilizing a constraint condition solution unit to create said program table through the use of a constraint solution technique on the basis of a constraint condition related to a selection of said plurality of contents and/or a constraint condition related to a temporal arrangement of said plurality of contents (paragraphs 35-40 and 44);

wherein said constraint solution unit creates said program table on the basis of a correlation between said contents with respect to said plurality of contents according to user's preference information (Sato, paragraphs 40 and 44), and

wherein an arrangement of said contents is determined on the basis of a pattern of scores *(i.e. priorities)* of said plurality of contents with respect to a time axis (Sato, Figures 3 and 5, paragraphs 44-45, 47 and 77).

Sato further teaches a memory (storage device) that stores said program table created by said constraint condition solution unit (paragraph 87).

Sato does not explicitly teach creating a program table by referring scores sets with respect to said plurality of contents according to user's preference.

Barton teaches an electronic content distribution and exchange system (see abstract), in which he teaches creating a program table by referring scores sets with respect to said plurality of contents according to user's preference (paragraphs 141, 145 and 174). (*Barton teaches that a user sets priorities (scores) for programs according to a preference.*)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Sato by the teaching of Barton to enable

authenticated, reliable content downloads and tracking capabilities based on user

preferences and time constraints (Barton, abstract).

With respect to claim 92, Sato teaches a program table creation system for

creating a program table to define a temporal arrangement of a plurality of contents, the

system comprising:

a program table creation server existing in a predetermined network (paragraph

23), so arranged as to create said program table through the use of a constraint solution

technique on the basis of a constraint condition related to a selection of said plurality of

contents and/or a constraint condition related to a temporal arrangement of said plurality

of contents (paragraphs 35-40 and 44);

to create said program table again through the use of a constraint solution

technique according to priorities (paragraphs 54-55, 82, and 111) (*Sato teaches when*

there is excess time (i.e. an excess state) the system modifies the program list to

extend the time length. He further teaches that extended priorities are used to

determine the order/priority in which programs should be extended); and

a communication unit being configured to connect with said predetermined

network and to transmit said constraint condition through said predetermined network to

said program table creation server and receive said program table created by said

program table creation server (paragraphs 24 and 31).

Sato does not explicitly teach creating a program table with the time length of each of said plurality of contents unchanged, by introducing a new constraint condition according to priorities of said constraint conditions.

Barton teaches an electronic content distribution and exchange system (see abstract), in which he teaches creating a program table (*schedule*) with the time length of each of said plurality of contents unchanged, by introducing a new constraint condition according to priorities of said constrain conditions (paragraph 174). (*Barton teaches that a scheduled program may be deleted from the schedule if a change in view preferences identifies a higher priority program that could be recorded at the same time.*)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Sato by the teaching of Barton to enable authenticated, reliable content downloads and tracking capabilities based on user preferences and time constraints (Barton, abstract).

With respect to claim 95, Sato teaches a program table creation system for creating a program table to define a temporal arrangement of a plurality of contents, the system comprising:

a program table creation server existing in a predetermined network (paragraph 23), so arranged as to create said program table through the use of a constraint solution technique on the basis of a constraint condition related to a selection of said plurality of contents and/or a constraint condition related to a temporal arrangement of said plurality

of contents (paragraphs 35-40 and 44), wherein said constraint solution unit creates

said program table on the basis of a correlation between said contents with respect to

said plurality of content according to user's preference information (Sato, paragraphs 40

and 44); and

a communication unit connectable with said predetermined network and capable

of transmitting said constraint condition through said predetermined network to said

program table creation server and receiving said program table created by said program

table creation server (paragraphs 24 and 31),

wherein an arrangement of said contents is determined on the basis of a pattern

of scores *(i.e. priorities)* of said plurality of contents with respect to a time axis (Sato,

Figures 3 and 5, paragraphs 44-45, 47 and 77).

Sato does not teach explicitly creating a program table by referring scores sets

with respect to said plurality of contents according to user's preference.

Barton teaches an electronic content distribution and exchange system (see

abstract), in which he teaches creating a program table by referring scores sets with

respect to said plurality of contents according to user's preference (paragraphs 141, 145

and 174). (*Barton teaches that a user sets priorities (scores) for programs according to

a preference.)*

It would have been obvious to a person having ordinary skill in the art at the time

the invention was made to have modified Sato by the teaching of Barton to enable

authenticated, reliable content downloads and tracking capabilities based on user

preferences and time constraints (Barton, abstract).

5.   Claims 83, 88 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sato et al. (US 2003/0114968 A1) ('Sato') in view of Barton (US 2011/0078035

A1), as applied to claims 82, 85, 87, 90, 92 and 95 above, and further in view of Chasen

et al. (US 6,760,721 B1) ('Chasen').

With respect to claims 83, 88 and 93, Sato in view of Barton teaches wherein

time length of each of said elements has some range (Sato, paragraphs 40 and 43-44).

Although Sato teaches said program table data, Sato in view of Barton does not

teach utilizing a tree structuring means to express said program table by a tree structure

having one or a plurality of hierarchies in which elements indicative of said contents

constituting said program table are disposed in a lowest-rank layer and elements

summarizing features of lower-rank elements are disposed in a rank higher with respect

to the elements indicative of said contents.

Chasen teaches a system and method of managing metadata data (see

abstract), in which he teaches utilizing a tree structuring means to express said program

table by a tree structure having one or a plurality of hierarchies in which elements

indicative of said contents constituting said table are disposed in a lowest-rank layer

(*i.e. track names*) and elements summarizing features of lower-rank elements (*i.e.

albums, artist, genre*) are disposed in a rank higher with respect to the elements

indicative of said contents (col. 3 line 59 – col. 4 line 8, Table 1 in column 11, and

"Groupings Tree" in columns 13-14).

It would have been obvious to a person having ordinary skill in the art at the time

the invention was made to have further modified Sato by the teaching of Chasen to

enable a user to easily access and view data by arranging data in a hierarchical

arrangement. For example, groupings tree provide ways to group and categorize audio

data and playlist trees provide ways to create and provide ordered lists of audio tracks

(Chasen, col. 3 lines 66-67, col. 4 lines 7-8).

6.   Claims 97, 98, 100-102, 104-106 and 108 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Sato et al. (US 2003/0114968 A1) ('Sato') in view of Barton

(US 2011/0078035 A1), as applied to claims 82, 85, 87, 90, 92 and 95 above, and

further in view of Chatfield (US 2003/0227478 A1).

With respect to claims 97, 101 and 105, Sato in view of Barton teaches said

pattern of scores of said plurality of contents with respect to a time axis.

Sato in view of Barton does not teach a pattern showing that said scores of

contents gradually increase from a start time to an end time of said program table.

Chatfield teaches systems and methods for a group directed media experience,

in which he teaches a pattern showing that said scores of contents gradually increase

from a start time to an end time of said program table (*i.e. a countdown to most

requested track*) (paragraph 49).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Sato by the teaching of Chatfield to enable group based playlists or schedules to be generated, and further to enable different ordering techniques for playing back programming to keep users interested (Chatfield, abstract, paragraph 49).

With respect to claims 98, 102 and 106, Sato in view of Barton teaches said pattern of scores of said plurality of contents with respect to a time axis.

Sato in view of Barton does not teach a pattern showing that said scores of contents gradually decrease from a start time to an end time of said program table.

Chatfield teaches systems and methods for a group directed media experience, in which he teaches a pattern showing that said scores of contents gradually decrease from a start time to an end time of said program table (*i.e. ordering based on votes with track with the most votes being played first*) (paragraph 49).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Sato by the teaching of Chatfield to enable group based playlists or schedules to be generated, and further to enable different ordering techniques for playing back programming to keep users interested (Chatfield, abstract, paragraph 49).

With respect to claims 100, 104 and 108, Sato in view of Barton teaches said pattern of scores of said plurality of contents with respect to a time axis.

Sato in view of Barton does not teach a pattern showing that said scores of contents gradually decrease from a start time to an intermediate time of said program table and said scores of contents gradually increase from said intermediate time to an end time of said program table.

Chatfield teaches systems and methods for a group directed media experience, in which he teaches a pattern showing that said scores of contents gradually decrease from a start time to an intermediate time of said program table and said scores of contents gradually increase from said intermediate time to an end time of said program table (paragraph 49). (*Chatfield teaches that the playlist may be interspersed with lower-ranked tracks with the most requested being the last one.*)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Sato by the teaching of Chatfield to enable group based playlists or schedules to be generated, and further to enable different ordering techniques for playing back programming to keep users interested (Chatfield, abstract, paragraph 49).

7.   Claims 99, 100, 103, 104, 107 and 108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (US 2003/0114968 A1) ('Sato') in view of Barton (US 2011/0078035 A1), as applied to claims 82, 85, 87, 90, 92 and 95 above, and further in view of Yasushi et al. (US 2004/0128286 A1) ('Yasushi').

With respect to claims 99, 103 and 107, Sato in view of Barton teaches said pattern of scores of said plurality of contents with respect to a time axis.

Sato in view of Barton does not teach a pattern showing that said scores of contents gradually increase from a start time to an intermediate time of said program table and said scores of contents gradually decrease from said intermediate time to an end time of said program table.

Yasushi teaches a music searching method, music searching device and music searching program, in which he teaches a pattern showing that said scores of contents gradually increase from a start time to an intermediate time of said program table and said scores of contents gradually decrease from said intermediate time to an end time of said program table (paragraphs 11, 43, 55, and 69). (*Yasushi teaches arranging a playlist of music in either descending (decreasing) or ascending (increasing) order according to played frequency (i.e. score) of a piece. He further teaches that the playlist may be arranged in order or high played frequencies or low played frequencies, and further that the playlist may be rearranged during playback of music. Therefore, Yasushi teaches gradually increasing (i.e. playing in ascending order of high frequency) and then gradually decreasing (i.e. playing low frequency in descending order.)*)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Sato by the teaching of Yasushi to enable playlist to be sorted in ascending or descending order on the basis of played frequency and to be rearranged based on sensor detection or explicit user selection (Yasushi, abstract, paragraph 69).

With respect to claims 100, 104 and 108, Sato in view of Barton teaches said pattern of scores of said plurality of contents with respect to a time axis.

Sato in view of Barton does not teach a pattern showing that said scores of contents gradually decrease from a start time to an intermediate time of said program table and said scores of contents gradually increase from said intermediate time to an end time of said program table.

Yasushi teaches a music searching method, music searching device and music searching program, in which he teaches a pattern showing that said scores of contents gradually decrease from a start time to an intermediate time of said program table and said scores of contents gradually increase from said intermediate time to an end time of said program table (paragraphs 11, 43, 55, and 69). (*Yasushi teaches arranging a playlist of music in either descending (decreasing) or ascending (increasing) order according to played frequency (i.e. score) of a piece. He further teaches that the playlist may be arranged in order or high played frequencies or low played frequencies, and further that the playlist may be rearranged during playback of music. Therefore, Yasushi teaches gradually decreasing (i.e. playing in descending order of high frequency) and then gradually increasing (i.e. playing low frequency in ascending order.)*)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Sato by the teaching of Yasushi to enable playlist to be sorted in ascending or descending order on the basis of played

frequency and to be rearranged based on sensor detection or explicit user selection
(Yasushi, abstract, paragraph 69).

Response to Arguments

8.   Applicant's arguments filed October 28, 2011 have been fully considered but they
are not persuasive. With respect to claims 82, 87 and 92, Applicant argues that Sato in
view of Barton fails to teach utilizing said constraint condition solution unit to create said
program table again through the use of a constraint solution technique with time length
of each of said plurality of contents unchanged, by introducing a new constraint
condition according to priorities of said constraint conditions. The examiner disagrees.

9.   Sato teaches when there is excess time (i.e. an excess state) the system
modifies the program list to extend the time length (paragraphs 54-55 and 111). He
further teaches that extended priorities are used to determine the order/priority in which
programs should be extended (paragraph 82). The examiner acknowledges that Sato
does not explicitly teach creating a program table with the time length of each of said
plurality of contents unchanged, by introducing a new constraint condition according to
priorities of said constraint conditions.

10.   Barton teaches that explicit viewer choices have the highest priority and
programming chosen by the preference technique follows behind (paragraph 137). He
further teaches several different viewer preference constraints (paragraph 145). The
highest viewer preference priority is for programs requested by the viewer, followed by
expressed preferences, followed by inferred preferences from viewing patterns. Finally,

Barton teaches that a scheduled program may be deleted from the schedule if a change

in viewer preferences identifies a higher priority program that could be recorded at the

same time (paragraph 174).

11.   A change in viewer preferences represents a new constraint condition; further,

Barton teaches that different viewer preferences are given priorities (paragraph 145).

Therefore, a change in viewer preferences (new constraint condition) that identifies a

higher priority program is inherently based on priorities of viewer preferences (i.e.

constraint conditions). For example, a preferred program chosen based on expressed

preferences would be deleted for a viewer requested program because programs

requested by a viewer have the highest viewer preference priority (i.e. higher than

programs based on expressed preferences). Even further, Barton teaches a prioritized

list of view preferences (paragraph 141). Therefore, it is clear that Barton teaches

priorities of constraint conditions and creating a schedule or program table based on

priorities of constraint conditions.

12.   With respect to claims 85, 90 and 95, Applicant argues that claims 85, 90 and 95

recite "an arrangement of said contents is determined on the basis of a pattern of **said**

scores of said plurality of contents with respect to a time axis." First, the examiner

would like to note that claims 85, 90 and 95 do not recite a pattern of **said scores**, but

instead only recite a pattern of **scores** of said contents. Therefore, the scores in the

limitation "wherein an arrangement of contents is determined on the basis of a pattern of

scores...", may refer to any scores and do not have to refer to scores according to user

preference information. Sato teaches arranging contents based on priorities (or scores) of said plurality of contents with respect to a time axis (paragraphs 44-45, 47 and 77).

13.   Further, Applicant argues that claim 85 thus defines an arrangement of said contents is determined based on a pattern showing "change of scores (which are set according to user preference) with respect to time axis." However, claim 85 does not recite a "change of scores (which are set according to user preference) with respect to time axis." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., change of scores (which are set according to user preference) with respect to time axis) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

13.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ALICIA LEWIS whose telephone number is (571)272-

5599. The examiner can normally be reached on Monday - Friday, 9 - 6:30, alternate

Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles Rones can be reached on 571-272-4085. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alicia M Lewis/

Primary Examiner, Art Unit 2164
January 5, 2012